

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
(Alexandria Division)**

LEN STOLER, INC. d/b/a LEN STOLER	)	
AUDI,	)	
	)	
Plaintiff/Counter-Defendant,	)	
	)	Case No. 1:15-cv-1659-TSE/JFA
v.	)	
	)	
VOLKSWAGEN GROUP OF AMERICA, INC.	)	
d/b/a AUDI OF AMERICA, INC.,	)	
	)	
Defendant/Counter-Plaintiff.	)	

**DEFENDANT AUDI OF AMERICA, INC.'S LIST OF TRIAL EXHIBITS**

Pursuant to Fed. R. Civ. P. 26(a)(3) and the Court's scheduling Orders, Defendant Audi of America, Inc. ("AoA") hereby lists the exhibits it may introduce at trial. The descriptions listed below are only intended for ease of reference and are not intended to be an election or limitation as to the manner in which the exhibit will be used.

In filing this list of exhibits, AoA does not waive any right to designate or use additional exhibits, including, but not limited to:

- (1) Any exhibit identified by Plaintiff on its list of trial exhibits;
- (2) Demonstrative aids and exhibits;
- (3) Any exhibit offered in rebuttal or response to testimony elicited, questions asked, or documents offered by Plaintiff;
- (4) Any exhibit offered for impeachment;
- (5) Any exhibit offered in the event of unfair surprise;
- (6) Any exhibit produced in this litigation after AoA files its list of trial exhibits;
- (7) Any exhibit which contains or reflects information that is created or becomes known after the undersigned date;
- (8) Any exhibit offered in response to the outcome of any motion concerning or affecting evidentiary matters to be filed by the parties;

- (9) Any document used to refresh recollection, for identification, or for purposes other than admission into evidence; and
- (10) Any exhibit offered in response to an objection by the Plaintiff as to the admissibility or authenticity of any exhibit identified herein.

AoA also expressly reserves the right to object to the introduction and admissibility of any of the documents identified herein. The fact that AoA has identified a document as an exhibit that it intends to introduce at trial, or has reserved its right to introduce any exhibit on Plaintiff's exhibit list, does not mean that AoA is thereby waiving its right to object to the admission of such document. AoA reserves the right to withdraw from its exhibit list any of the materials listed herein, whether in whole or in part, at any time, including but not limited to during or after the time prescribed for making objections to the parties' exhibits. In addition, AoA notes that some of the documents or other items listed below have been marked either "Confidential" or "Highly Confidential – Attorney's Eyes Only" pursuant to the Stipulated Protective Order entered by the Court (Dkt. No. 41). AoA anticipates raising with the Court at the pretrial hearing (or at such other time as the Court may direct) the means by which such materials might be offered into evidence while maintaining their confidential nature, including the timing of any motion(s) pursuant to Local Rule 5(H).

AoA reserves the right to introduce pleadings, testimony excerpts, and discovery responses elicited in this action, including, but not limited to, those listed below.

<b>Exhibit No.</b>	<b>Description</b>	<b>Bates No.</b>	<b>Dep. Exhibit</b>
001	Plaintiff's Rule 26(a)(1) Disclosures	n/a	
002	Plaintiff's Answers to Defendant Audi of America's First Set of Interrogatories (2016-09-09)	n/a	
003	Stoler Audi Dealer Agreement	AoA0000083- AoA0000090	
004	Audi Architecture + Retail Capacity Guide	AoA0000091- AoA0000139	Thacker 46
005	Grandfather Policy (2011-09-21)	AoA0000140- AoA0000141	Thacker 42
006	Audi Standards Checklist (2013-08)	STOLER001049- STOLER001070	
007	Audi Retail Facility Development Program Design Services Enrollment Form for Stoler with attached capacity planning forms (2014-03-31)	AoA0000158- AoA0000161	
008	Audi Retail Facility Development Program Design Services Enrollment Form for Stoler with attached capacity planning forms (2014-04-01)	AoA0000162- AoA0000165	
009	Audi Retail Facility Development Program Design Services Enrollment Form for Stoler (2014-11-25)	AoA0000186	
010	Stoler Audi Exclusive Facility Construction Agreement (2014-10-14)	AoA0000187- AoA0000189	
011	Capacity Planning Form (2014-05-20)	AoA0000190- AoA0000192	
012	Stoler Audi Exclusive Facility Construction Agreement (2015-01-13)	AoA0000193- AoA0000196	Thacker 50
013	Audi Dealer Agreement Standard Provisions	AoA0000273- AoA0000296	
014	LenStoler.com webpage	n/a	
015	Pictures of Maryland Audi Dealers	AoA0000052- AoA0000065	
016	Audi Frederick Construction Extension	AoA0000250	Meyer 26
017	Southern Region Dealer Contact Report re Stoler (2012-03-01)	AoA0000142	

<b>Exhibit No.</b>	<b>Description</b>	<b>Bates No.</b>	<b>Dep. Exhibit</b>
018	N. Johnson email to D. Leibowitz, J. Matthews re discussions with Len Stoler (2012-09-10)	STOLER004559-STOLER004561	
019	M. Balmer email to B. Stoler re Len Stoler Audi (2013-04-11)	STOLER000092-STOLER000094	
020	M. Balmer email to D. Miller, K. Mathews, J. Koteles, A. Smith re Audi sales final (2013-07-02)	STOLER001073-STOLER001075	
021	A. Smith to several recipients re Audi Insight Report (2013-08-12)	STOLER000096-STOLER000097	
022	A. Smith to several recipients re Audi Insight Report (2013-08-12)	STOLER001071-STOLER001072	
023	M. Balmer email to B. Stoler re projected facility cost (2013-11-04)	STOLER001043	
024	P. Hamilton letter to L. Stoler re 2016 Facility Classification Requirement (2014-01-10)	AoA0000156	Thacker 43
025	P. Hamilton letter to L. Stoler re dealer assessment (2014-04-25)	AoA0000167	Fischer 8
026	E. Chelline email to D. Leibowitz, T. Batchelor re attached draft LOI, and attachments (2014-07-24)	STOLER003473-STOLER003491	Leibowitz 11
027	M. Cohen email to B. Stoler re former GM property (2014-08-13)	STOLER003460-STOLER003463	Leibowitz 12
028	J. Sobel email to B. Morris re LOI (2014-08-31)	STOLER005280-STOLER005283	Leibowitz 41
029	D. Leibowitz email to B. Morris re Pro Forma with attachment (2014-09-08)	STOLER000493-STOLER000494	
030	J. Sobel email to B. Morris re Stoler (2014-09-09)	STOLER002486-STOLER002487	
031	D. Leibowitz email to E. Chelline re attached EBITDA spreadsheet and attachment	STOLER005191-STOLER005192	
032	Spreadsheet with EBITDA and blue sky numbers	n/a	Leibowitz 44
033	P. Hamilton letter to L. Stoler re Grandfather Policy and Cure Policy (2014-10-16)	STOLER003910-STOLER003914	
034	M. Balmer email to P. Hamilton re Stoler 10550 Reisterstown Road (2014-10-22)	AoA0000626-AoA0000629	Hamilton 5
035	Redacted D. Leibowitz email to E. Wagonheim, M. Albo, B. Stoler re 10550 Reisterstown Road with attached Lease (2014-10-29)	STOLER004287-STOLER004336	Leibowitz 31

<b>Exhibit No.</b>	<b>Description</b>	<b>Bates No.</b>	<b>Dep. Exhibit</b>
036	M. Trojaniak email to M. Balmer, B. Pellock, S. Grimes re Field Review for Len Stoler Audi Assessment (2014-11-06)	AoA0000764- AoA0000769	
037	B. Pellock email to B. Stoler, P. Hamilton re terminal rendering, and attachment (2014-11-25)	STOLER000299- STOLER000303	
038	B. Pellock email to B. Stoler, P. Hamilton re terminal rendering, and attachment (2014-11-25)	STOLER000304- STOLER000312	
039	M. Balmer email to B. Stoler re assessment with photos (2014-12-03)	STOLER000890- STOLER000937	
040	L. Whitlock email to B. Stoler, M. Balmer, J. Brown, B. Pellock, C. Thacker, S. Grimes re Audi Owings Mills – site information request (2014-12-04)	AoA0000772- AoA0000773	
041	L. Whitlock email to B. Stoler, J. Brown, M. Balmer, B. Pellock, C. Thacker and S. Grimes re Audi Owings Mills – Site Information Request (2014-12-04)	STOLER000062- STOLER000063	
042	R. McRory email to P. Ritsema re Len Stoler Audi (2014-12-11)	AoA0000770- AoA0000771	Meyer 14
043	M. Balmer email to B. Stoler re warning on training certification (2014-12-16)	AoA0000783	
044	P. Ritsema email to R. McRory re Len Stoler LOI with attachment (2015-01-13)	AoA0000828- AoA0000832	
045	P. Ritsema email to R. McRory re Len Stoler LOI with attachment (2015-01-13)	AoA0000833- AoA0000837	
046	J. Meyer email to undisclosed recipients re final version of LOI (2015-01-13)	AoA0000906- AoA0000908	
047	J. Diffendall email to M. Beech and B. Milton re Stoler tech (2015-01-16)	AoA0000871- AoA0000873	
048	Colbert Matz Rosenfelt letter to L. Stoler re proposal (2015-01-20)	STOLER000258- STOLER000266	
049	J. Diffendall email to C. Kinney re diesel (2015-01-26)	AoA0000901- AoA0000903	
050	P. Hamilton email to M. Balmer re Baltimore meetings (2015-01-28)	AoA0000909- AoA0000911	Hamilton 8
051	M. Balmer email to K. Mathews, D. Miller re area 83 sales managers thrive on Q5 standings (2015-05-11)	AoA0001210- AoA0001212	
052	L. Stoler letter to S. Martini re response to May 7, 2015 letter (2015-05-19)	AoA0000203- AoA0000204	

<b>Exhibit No.</b>	<b>Description</b>	<b>Bates No.</b>	<b>Dep. Exhibit</b>
053	Audi Academy training held at Len Stoler Audi (2015-06-11)	AoA0001239-AoA0001240	
054	A. Zegarelli email to K. Mathews re sales forecast due with Q5 breakout (2015-06-15)	AoA0001243-AoA0001245	
055	M. Balmer email to B. Stoler, L. Stoler re performance excellence report (2015-07-07)	STOLER000269-STOLER000270	
056	A. Zegarelli email to M. Balmer re problems with Frank (2015-07-15)	AoA0001259-AoA0001260	
057	A. Zegarelli email to M. Balmer re DEPP and other ideas (2015-07-27)	AoA0001267-AoA0001268	
058	F. Greenstein email to K. Mathews, A. Robbins re change in position (2015-08-31)	AoA0001292-AoA0001294	
059	A. Eglitis email to M. Harritt, C. Thacker, V. Rospond re Audi Owings Mills – DCD Drawings, including attachment (2015-09-10)	AoA0001295-AoA0001311	
060	P. Hamilton letter to L. Stoler re Notice of Breach – Audi Dealer Agreement (2015-09-24)	AoA0000422-AoA0000441	Hamilton 12
061	Scanned email to D. Leibowitz with attached One Rock letter (2015-09-25)	STOLER000660-STOLER000664	Leibowitz 19
062	D. Leibowitz email to B. Stoler re Porsche Audi Numbers (2015-10-02)	STOLER002401	Leibowitz 30
063	A. Eglitis email to M. Harritt, T. Jenkins, R. Rospond re Owing Mills Revised Post DCD drawings (2015-10-03)	STOLER001178-STOLER001180	
064	Redacted D. Leibowitz email to R. McRory, B. Stoler re various correspondence which is not attached (2015-10-05)	STOLER003890	
065	K. Beyer email to B. Morris, K. Rodgers re loan vehicles/new inventory (2015-10-06)	STOLER002377-STOLER002383	Leibowitz 20
066	Redacted R. McRory email to P. Ritsema re Arent Fox letter (not attached) (2015-10-16)	STOLER003881-STOLER003884	
067	R. McRory letter to P. Ritsema re Stoler Audi (2015-10-16)	AoA0000240	Ritsema 8
068	M. Balmer letter to L. Stoler re Standards Scorecard Deficiency Notification (2015-10-29)	AoA0000412-AoA0000421	

<b>Exhibit No.</b>	<b>Description</b>	<b>Bates No.</b>	<b>Dep. Exhibit</b>
069	C. Thacker letter to B. Stoler re Audi Owings Mills Construction Delays (2015-11-04)	AoA0000242-AoA0000249	Thacker 39
070	D. Leibowitz email to B. Morris, D. Howard re One Rock (2015-11-09)	STOLER005000-STOLER005002	
071	B. Stoler letter to P. Hamilton re Len Stoler Audi (2015-11-16)	AoA0000410-AoA0000411	
072	C. Thacker email to J. Meyer, P. Hamilton, T. Durr re information on Len Stoler Audi (2015-11-30)	AoA0001574-AoA0001577	
073	D. Leibowitz email to M. Cohen, B. Stoler re attached parts and service portions of internal statement (2015-12-02)	STOLER001157-STOLER001162	Leibowitz 24
074	Redacted M. Cohen email to L. Cohen re draft of PSA (2015-12-04)	STOLER004133-STOLER004138	Leibowitz 25
075	P. Hamilton letter to B. Stoler (2015-12-08)	AoA0000253-AoA0000268	
076	Redacted F. Traub email to E. Wagonheim re prices of new remaining inventory (2015-12-08)	STOLER004123-STOLER004126	
077	Redacted F. Traub email to E. Wagonheim re conversation between Marc Cohen and Barry Stoler (2015-12-09)	STOLER004121-STOLER004122	
078	R. McRory email to P. Ritsema re Len Stoler Audi complaint (2015-12-09)	AoA0001625-AoA0001629	
079	R. McRory email to P. Ritsema re Len Stoler Audi complaint (2015-12-09)	AoA0001630-AoA0001635	
080	R. McRory email to P. Ritsema re Len Stoler Audi complaint (2015-12-09)	STOLER003874-STOLER003875	
081	D. Leibowitz email to B. Stoler re draft email to Marc Cohen (2016-01-06)	STOLER001670	Leibowitz 26
082	J. Levin email to J. Brown re Audi dealership (2016-01-08)	STOLER000581-STOLER000582	
083	M. Balmer email to K. Mathews, D. Miller, J. Koteles, B. Milton re January sales final (2016-02-02)	STOLER000032	
084	Training memo re Stoler Audi (2014-04-29)	AoA0000168-AoA0000169	
085	J. Meyer memo to dealer file re in-person meeting held on December 1, 2015 in Herndon, VA with B. Stoler, M. Del Rosso and J. Meyer (2015-12-01)	AoA0000269-AoA0000270	Meyer 21

<b>Exhibit No.</b>	<b>Description</b>	<b>Bates No.</b>	<b>Dep. Exhibit</b>
086	Audi Dealer Agreement Standard Provisions	STOLER004256-STOLER004280	
087	Damages Calculation Document	STOLER006297	Leibowitz 55
088	2011-2013 AoA Performance Bonus Program Rules	AoA0000143	
089	AoA Performance Bonus Program 2014-2016 and R8 Back End Bonus Program Rules	AoA0000154	
090	2014-2016 AoA Performance Bonus Program Rules	AoA0000166	
091	2014-2015 AoA Performance Bonus Program Rules	AoA0000241	
092	2016-2020 AoA Performance Bonus Program Rules	AoA0000251	
093	2016-2020 AoA Performance Bonus Program Rules	AoA0000272	
094	Stoler Bonus Program Report	AoA0002031-AoA0002079	
095	Jay Lytle Report Ex. 1 – Maryland PAI Map	n/a	
096	Jay Lytle Report Ex. 2 – Maryland Audi Dealers Standards Bonus Qualification Levels	n/a	
097	Jay Lytle Report Ex. 3 – Roesner Report Lost/Standards/Business Fundamentals Bonus per New Audi Sold Len Stoler Audi	n/a	
098	Jay Lytle Report Ex. 4 – Audi of Hunt Valley Fixed Expenses	n/a	
099	Jay Lytle Report Ex. 5 – Audi Silver Spring Fixed Expenses	n/a	
100	Jay Lytle Report Ex. 6 – Composite Average Fixed Expenses	n/a	
101	Jay Lytle Report Ex. 7 – Annual Expense Increase to Qualify for Exclusive Audi Standards Bonuses Fixed Expenses	n/a	
102	Jay Lytle Report Ex. 8 – Annual Expense Increase to Qualify for Exclusive Audi Standards Bonuses Personnel Expenses	n/a	
103	Jay Lytle Report Ex. 9 – Annual Expense Increase to Qualify for Exclusive Audi Standards Bonuses Exclusive vs. Brand Dedicated	n/a	



<b>Exhibit No.</b>	<b>Description</b>	<b>Bates No.</b>	<b>Dep. Exhibit</b>
104	Jay Lytle Report Ex. 10 – Len Stoler Net Profit Before Taxes	n/a	
105	Jay Lytle Report Ex. 11 – Len Stoler Automotive Franchises 2015 Sales	n/a	
106	Jay Lytle Report Ex. 12 – Len Stoler Audi Change in Audi New Unit Sales vs. Change in Audi Used Sales	n/a	
107	Jay Lytle Report Ex. 13 – Len Stoler Audi Change in Audi New Unit Sales vs. Change in Audi Service Sales	n/a	
108	Jay Lytle Report Ex. 14 – Len Stoler Audi Change in Audi New Unit Sales vs. Change in Audi Parts Sales	n/a	
109	Jay Lytle Report Ex. 15 – Len Stoler Audi Used Wholesale Units as a Percent of Total Used Units	n/a	
110	Jay Lytle Report Ex. 16 – Len Stoler New Audi Retail Units vs. Total Used Units Sold	n/a	
111	Jay Lytle Report Appendix Ex. 1 – Maryland PAI Map	n/a	
112	Jay Lytle Report Appendix Ex. 2 – Dealer A Fixed Expenses	n/a	
113	Jay Lytle Report Appendix Ex. 3 – Dealer B Fixed Expenses	n/a	
114	Jay Lytle Report Appendix Ex. 4 – Len Stoler Audi Fixed Expenses	n/a	
115	Jay Lytle Report Appendix Ex. 5 – Audi Separated on Dealer Financial Statement for Len Stoler Audi (2007-2015)	n/a	
116	Jay Lytle Report Appendix Ex. 6 – Audi Separated on Dealer Financial Statement for Audi of Hunt Valley (2007-2015)	n/a	
117	Jay Lytle Report Appendix Ex. 7 – Audi Separated on Dealer Financial Statement for Audi Silver Spring (2007-2015)	n/a	
118	Jay Lytle Report Appendix Ex. 8 – Capital Asset Schedule 409A01 Audi of Hunt Valley (2008-2010)	n/a	
119	Jay Lytle Report Appendix Ex. 9 – Capital Asset Schedule 409A01 Audi of Hunt Valley (2011-2013)	n/a	

<b>Exhibit No.</b>	<b>Description</b>	<b>Bates No.</b>	<b>Dep. Exhibit</b>
120	Jay Lytle Report Appendix Ex. 10 – Capital Asset Schedule 409A01 Audi of Hunt Valley (2014-2015)	n/a	
121	Jay Lytle Report Appendix Ex. 11 – Len Stoler Dealer Financial Statement Reconciliation New Unit Sales	n/a	
122	Jay Lytle Report Appendix Ex. 12 – Dealer Reported Sales	n/a	
123	Jay Lytle Resume and Schedule of Testimony	n/a	
124	Mark Schmitz Summary Vitae, Prior Testimony, and Publications	n/a	
125	David A. Smith Report Ex. 1 – Bonus Status by Maryland Dealer 2008Q1-2016Q1	n/a	
126	David A. Smith Report Ex. 2 – New Audi Vehicles Sold by Maryland Dealers 2008-2015	n/a	
127	David A. Smith Report Ex. 3 – New Audi Sales as a Share of Total Vehicle Sales for Maryland Dealers 2008-2015	n/a	
128	David A. Smith Report Ex. 4 – New Audi Sales Vehicles Sold by Maryland Dealers 2008Q1-2015Q4	n/a	
129	David A. Smith Report Ex. 5 – Share of New Audi Vehicles Sold by Maryland Dealer 2008Q1-2015Q4	n/a	
130	David A. Smith Report Ex. 6 – Average New Audi Price by Maryland Dealer 2008Q1-2015Q4	n/a	
131	David A. Smith Report Ex. 7 – Average Q5 3.0T Price by Maryland Dealer 2010Q3-2015Q4	n/a	
132	David A. Smith Report Ex. 8 – Average Q7 2.0T Price by Maryland Dealer 2010Q3-2015Q4	n/a	
133	David A. Smith Rebuttal Report Ex. 1 – Percentage Change in Sales for Eligible New York Dealers June 20016-August 2016	n/a	
134	David A. Smith Resume	n/a	

Dated: March 16, 2017

Respectfully submitted,

/s/

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*Counsel for Defendant Volkswagen Group of  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of March, 2017, I served a true and accurate copy of the foregoing by filing it electronically with the Clerk of the Court using CM/ECF system, which will send a notification of such filing (NEF) to the following:

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